



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/663,259 | 09/16/2003 | Norman S. Martucci | 0153.00087 | 1456 |

7590 06/07/2006

Amy E. Rinaldo
KOHN & ASSOCIATES, PLLC
Suite 410
30500 Northwestern Highway
Farmington Hills, MI 48334

EXAMINER

AFTERGUT, JEFF H

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1733

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,259

Applicant(s)

MARTUCCI, NORMAN S.

Examiner

Jeff H. Aftergut

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Japanese Patent 2001-289366 or Mathews et al (US 2002/0056511) in view of any one of Bates et al '743, Bates et al '282, Marzocchi et al '830 Marzocchi et al '123 or Marzocchi '452 and Gareis for the same reasons as expressed in paragraph 9 of the Office action dated 11-7-05.

Regarding claim 5, it should be noted that the references taught passing the braided assembly through a reservoir which contained the dispersion therein (i.e. through a bath of the dispersion).

Election/Restrictions

3. Applicant's election with traverse of Group I, claims 1-5 in the reply filed on 4-28-06 is acknowledged. The traversal is on the ground(s) that there is no indication of an undue search burden associated with examination of all the presented claims. This is not found persuasive because as established in the Office action dated 11-7-05, the inventive groups are all classified in different classes of invention (Group I in class 156/149, Group II in 118/400 and Group III in 428/34.1). As such the search of each invention has mandatory searches in different classes in accordance with the US classification system. Such is clearly burdensome. Additionally, applicant is advised that there is additional examination burden associated with keeping both the method and hose assembly in the same application as well as the method and apparatus for making

Art Unit: 1733

the hose assembly in the same application as different considerations are given to claimed limitations therein (i.e. in an apparatus the material worked upon is given no weight in an article of manufacture unless it can be shown by evidence by applicant to the contrary, the manipulative steps used to make the product do not impart any additional requirement on the finished assembly). As such, there clearly is not only search burden associated with keeping the groups together but there also is an examination burden associated with the same.

The requirement is still deemed proper and is therefore made FINAL.

Response to Arguments

4. Applicant's arguments filed 4-28-06 have been fully considered but they are not persuasive.

The applicant argues that the references failed to teach that one would have braided upon a tubular core and subsequently opened up the gaps in the braided material after the braiding operation. This argument has not been found to be persuasive.

The references to either one of Mathews or Japanese Patent '366 clearly suggested that the braided assembly including a core with a braided material thereon would have been fed through a reservoir which contained a dispersion therein to coat the assembly. The references failed to teach the opening of the braided fibers up during the coating operation in order to facilitate impregnation of the braided material in the production of the assembly. It should be noted that the manner in which applicant opens up the gaps in the braided material was to feed the braided assembly through a

Art Unit: 1733

reservoir wherein the reservoir included bars or rollers over and under which the braided assembly was fed in order to open up the fibers of the assembly. While it is correct that the references to any one of Bates et al '743, Bates et al '282, Marzocchi et al '830 Marzocchi et al '123 or Marzocchi '452 did not feed a braided assembly through a reservoir subsequent to the braiding, each of the references suggested that within the reservoir one skilled in the art would have disposed rollers and/or bars over and under which a bundle of fibers were fed. The bundle was fed in a close relationship and the artisan desired to ensure complete impregnation of the fibers individually within the bundle. To do so, one needed to ensure spreading of the fibers apart during passage through the reservoir. In order to accomplish this spreading, the artisan was taught to incorporate rollers or bars within the reservoir in order to ensure complete impregnation. Prior to entry into the reservoir the fibers were unimpregnated. In either one of Mathews or Japanese Patent '366 the fibers of the braid were unimpregnated prior to introduction into the bath for coating and impregnation with the dispersion. Additionally, the braiding of the fibers would have disposed the fibers adjacent one another into a configuration much like a bundle of fibers where in order to ensure complete impregnation one would have desired to open the fibers up to ensure that the individual fibers were impregnated.

It should be noted that all applicant provided in the bath to facilitate the opening up of the fibers of the braid during impregnation of the braid was rollers in the bath in much the same way the references to any one of Bates et al '743, Bates et al '282, Marzocchi et al '830 Marzocchi et al '123 or Marzocchi '452 did. The reference to Gareis clearly evidenced that one skilled in the art would have desired to incorporate the

Art Unit: 1733

specified rollers in the impregnation bath for impregnating a braided assembly on a core (which is what either one of Mathews or Japanese Patent '366 desired). The reference to Gareis stated:

"The cable 20' is drawn through the tank 40 by an external means (not shown), such as a powered take up reel used in cable manufacturing, over a series of guide rollers 42, 44, 46, and 48 which provide a path of sufficient length through the bath to insure the gel material has adequately penetrated and filled essentially all of the void spaces in the braid layer 28." (emphasis added)

the reference to Gareis clearly therefore suggested that those skilled in the art would have understood that the passing of the braided assembly on a core under and over a series of rollers in a bath would have allowed for penetration of the material in the bath into the voids of the braided assembly. While the reference did not expressly state that the gaps between the fibers were opened up, one skilled in the art would have understood that this is precisely what is transpiring intrinsically in the operation as evidenced by any one of Bates et al '743, Bates et al '282, Marzocchi et al '830 Marzocchi et al '123 or Marzocchi '452. While it is agreed that Gareis suggested that the rollers allowed for a suitable path length, this clearly was not the only function of the rollers in Gareis and the rollers clearly acted to ensure adequate impregnation in the operation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such a roller arrangement in the reservoir of either one of Japanese Patent 2001-289366 or Mathews et al in order to improve the penetration of the dispersion into the voids of the braid as suggested by Gareis where the arrangement was known to help open up gaps between fibers as suggested by each of

Art Unit: 1733

Bates et al '743, Bates et al '282, Marzocchi et al '830 Marzocchi et al '123 or Marzocchi '452.

The rejection of claim 5 with the reference to E.P. 1,127,680 has been removed from the prior art rejections and is not deemed to be necessary to establish a prima facie case. The claim has been amended not to provide for two separate dispersion coatings but rather to reference back to the single dispersion coating of claim 1 to overcome the previously noted 112, second paragraph rejection.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

Art Unit: 1733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
June 5, 2006